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Attorneys for Intervenor-Defendant
Dow AgroSciences LLC

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED FARM WORKERS OF AMERICA,)
AFL-CIO, et al.,)

Plaintiffs,)

v.)

ADMINISTRATOR,)
UNITED STATES ENVIRONMENTAL)
PROTECTION AGENCY,)

Defendant,)

DOW AGROSCIENCES LLC)

Intervenor.)

Case No. C 07-03950 JF

**DEFENDANT-INTERVENOR
DOW AGROSCIENCES LLC'S
MOTION PURSUANT TO
LOCAL RULE 7-3(D) FOR
LEAVE TO FILE STATEMENT
OF RECENT DECISION**

The Honorable Jeremy Fogel

1 In accordance with Local Rule 7-3(d), Defendant-Intervenor Dow AgroSciences LLC
2 (“DAS”), moves for the entry of an Order granting DAS leave to file the attached Statement of
3 Recent Decision.

4 The case that DAS seeks to bring to this Court’s attention is the May 19, 2008 decision in
5 *United Farm Workers of America, AFL-CIO v. Administrator, U.S. EPA*, No. CV04-0099-RSM
6 (W.D. Wash.). This decision concerns the same judicial review provisions that are at issue here
7 and strongly supports DAS’ pending Motion to Dismiss (Doc. #50). The decision was issued
8 after the May 9, 2008 hearing on DAS’ pending Motion to Dismiss, and thus could not have
9 previously been brought to the Court’s attention.
10

11 For these reasons DAS respectfully requests that this Motion be granted.

12
13 Respectfully Submitted,

14 DATED: May 22, 2008

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Case No. C 07-03950 JF

DEFENDANT-INTERVENOR
DOW AGROSCIENCES LLC'S
STATEMENT OF RECENT
DECISION

The Honorable Jeremy Fogel

Defendant-Intervenor Dow AgroSciences LLC (“DAS”) hereby notifies this Court of the recent decision in *United Farm Workers of America, AFL-CIO v. Administrator, U.S. EPA*, No. CV04-0099-RSM (W.D. Wash.). This decision was issued on May 19, 2008, which was after the May 9, 2008 hearing on DAS’ pending Motion to Dismiss (Doc. #50).

In *United Farm Workers*, which involved nearly identical parties and the same jurisdictional issue, Judge Martinez of the Western District of Washington held that FIFRA Section 16(b) mandated review of EPA’s pesticide reregistration decision for Azinphos Methyl in the Court of Appeals because there existed an adequate record for review. Slip Op. at 6-8. Plaintiffs recognized the similarity between these cases in their Opposition to DAS’ Motion to Dismiss. Pls.’ Opp’n at 2 n.2 (Doc. #54).

For the reasons set forth above, DAS submits *United Farm Workers of America, AFL-CIO v. Administrator, U.S. EPA*, No. CV04-0099-RSM (W.D. Wash.), for the Court’s consideration in connection with its pending Motion to Dismiss. A true and correct copy of that decision is attached hereto as Exhibit 1.

Respectfully Submitted,

DATED: May 22, 2008

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